IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 4236 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAVINDRAKUMAR POPATBHAI PANCHAL

Versus

STATE OF GUJARAT

Appearance:

MR AKSHAY H MEHTA for Petitioners

MR.V.M.PANCHOLI A.P.P for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 16/02/2001

ORAL JUDGEMENT

1. The respondent No.2 filed a Criminal complaint on 8.4.1994 against the petitioners in the Court of J.M.F.C.

at Botad alleging that the petitioners had committed offence punishable under Sections 406, 420, 506 (2) read with 114 of the Indian Penal Code.

2. The learned Magistrate ordered the said complaint to be sent to the police for investigation under Section 156 (3) of the Criminal Procedure Code. The petitioners thereupon filed this Criminal Application under Section 482 of the Criminal Procedure Code for quashing the said complaint.

3. In the complaint it was alleged that on 17.3.1994 the petitioners came to the residence of the complainant at Botad and told him that they had a Ambassador car for sale and they are looking for a buyer. The complainant himself offered to purchase it. After negotiations it was agreed to be sold for Rs.95,000/-. The complainant paid Rs.75,000/- as earnest; but, when the complainant asked the petitioners where the car was, they said that a puncture in the tyre was being mended on the Tower Road in the city and they would deliver the car after the puncture was mended. The complainant allowed the petitioners to go relying on their word. When they did not return for several hours, he went to inquire at the place mentioned by the complainant. There was no car there. The complainant also caused inquiries to be made in the surrounding villages but no such car was traceable. The complainant then went to the residence of the petitioners at Borsad, but they told the complainant that they had lied to the complainant in order to obtain money from him and they refused to return the amount.

4. It appears from the version set out in the complaint that it is inherently improbable and absurd and the complaint appears to have been filed with ulterior motive. There may have been some other dispute between the parties, but the story of the complainant having paid Rs.75,000/- to the petitioners without even looking at the car is improbable and unbeliveable and it will not be in the interest of justice to allow the complainant to proceed further.

5. This petition is therefore allowed and the complaint in question is ordered to be quashed and set-aside. Rule made absolute accordingly.

(M.C. Patel, J).

/phalguni/